

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2015

CORAM

THE HONOURABLE MS.JUSTICE R.MALA

CrI.R.C.No.166 of 2014

T.Asokan

.. Petitioner/3<sup>rd</sup> Accused

vs

The State represented by  
The Inspector of Police  
CBI/EOW/Chennai.

.. Respondent/Complainant

Prayer:- This Criminal Revision Petition is filed under Sections 397 and 401 Cr.P.C., to set aside the order dated 31.10.2013 in M.P.No.555 of 2013 in C.C.No.3453 of 2012 on the file of the Additional Chief Metropolitan Magistrate, Egmore, Chennai, dismissing the petition filed by the petitioner under Section 451 of Cr.P.C.

For Petitioner : Mr.N.Ramakrishnan  
for M/s.Waraon and Sai Rams

For Respondent : Mr.K.Srinivasan  
Special Public Prosecutor for CBI Cases

ORDER

Challenging the impugned order passed in M.P.No.555 of 2013 in C.C.No.3453 of 2012 dated 31.10.2013 on the file of the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai dismissing the petition filed under Section 451 Cr.P.C. for returning the original title deeds and parent title deeds pertaining to the properties comprised in Survey No.146, admeasuring 2821 sq.ft. in 9-A Nattampannai Village, Pudukottai Panchayat Union and Pudukottai District bearing Document No.2672 of 1999 dated 26.08.1999 before the District Registrar of Pudukottai along with the related parent title deeds submitted there, this Criminal Revision Petition has been filed

2.Heard the learned counsel appearing for the petitioner and the learned Special Public Prosecutor for CBI cases appearing for the respondent.

3.The learned counsel appearing for the petitioner would submit that the petitioner was arrayed as A3 in C.C.No.3453 of 2012 on the file of the learned Chief Metropolitan Magistrate, Egmore, Chennai. The petitioner is the sole and absolute owner of the property comprised in Survey No.146, measuring an extent of 2821 sq.ft. in 9-A Nattampannai Village, Pudukottai Panchayat Union and Pudukottai District, having purchased the same under a Sale Deed dated 26.08.1999. He obtained loan from City Union Bank, Alangudi Road, Pudukottai District and created an equitable mortgage. Because of non-payment, the bank authority has also taken civil proceedings for recovery of the loan amount and filed Original Application before DRT. During the pendency, a third party, namely, Mrs.Priyadharshini, wife of S.Saravanan, has purchased the property and settled the loan in favour of the City Union Bank. The original document is necessary to hand over the same to the purchaser. Further, it is submitted that even though the recovery proceedings are pending before DRT, subsequently, the amount has been settled and the Original Application has been withdrawn. He would further submit that during the investigation in F.I.R.No.Rc.10/E/2011/CBI/EOW/Chennai, the CBI has recovered the document from the City Union Bank, Pudukottai and filed the charge sheet which was taken as C.C.No.3453 of 2012. Though the petitioner is ready to substitute a certified copy and pray for return of the original document, the Trial Court considering the objection raised by the respondent has dismissed the same stating that the original document is necessary for comparison with the document furnished as security to Tamil Nadu Industrial Investment Corporation (TIIC). The learned counsel appearing for the petitioner would further submit that the petitioner is ready to abide any condition imposed by this Court, but he want the original document, in turn, to hand over the same to the purchaser. Hence, he pray for setting aside the order dated 31.10.2013 passed in CrI.MP.No.555 of 2013 in C.C.No.3453 of 2012 by the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai.

4.Resisting the same, the learned Special Public Prosecutor for CBI Cases would submit that the petitioner along with his two brothers has conspired together and availed the credit facility of Rs.160 lakhs from Union Bank of India by furnishing fabricated document. He would further submit that even though it was deposited by creating equitable mortgage to City Union Bank, Pudukottai, they fabricated the same title deed and on that basis, they availed the loan and that the original document is very necessary for comparing the signature. He would further submit that the Trial Court has considered all the points in paragraph Nos.11 and 12 of the order and came to the correct conclusion. Hence, he pray for dismissal of this petition.

5.Considered the rival submissions made on both sides and perused the typed set of papers.

6.The admitted facts are that the revision petitioner has purchased the property on 26.08.1999 vide Document No.2672 of 1999. It is also admitted by the petitioner that he availed loan by depositing the title deed before the City Union Bank, Alangudi Road, Pudukottai District. The case of the prosecution is that they fabricated the same Document No.2672 of 1999 and deposited while availing credit facilities of Rs.160 lakhs from Union Bank of India. During the investigation, the CBI has seized the original document which was deposited in the City Union Bank, Pudukottai, was filed before the Trial Court.

7.Now, this Court has to decide whether the original document is necessary for disposal of the case? Because the fabricated document has been deposited as original and on that basis, the Bank has been cheated to the tune of Rs.160 lakhs, the original document is necessary for comparison by invoking Section 73 of Indian Evidence Act. In such circumstances, the Trial Court has considered all the aspects in proper perspective.

8.Further, a Status report was called for by this Court on 06.01.2015, in which, it was stated that already P.W.31 was examined in chief full, Ex.P.107 has been marked and the case in C.C.No.3453 of 2012 has been posted on 12.02.2015.

9.Considering the facts and circumstances of the case and since the case in C.C.No.3453 of 2012 was in Part-heard stage, I do not find any merits in this petition and hence, the Criminal Revision deserves to be dismissed.

10.Accordingly, the Criminal Revision Petition is dismissed by confirming the order passed by the Trial Court in Crl.M.P.No.555 of 2013 in C.C.No.3453 of 2012 on 31.10.2013. However, the Trial Court is directed to dispose of C.C.No.3453 of 2012 within a period of two months from the date of receipt of a copy of this order on day-to-day basis.

Sd/-  
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

cse

To

1.The Inspector of Police  
CBI/EOW/Chennai.

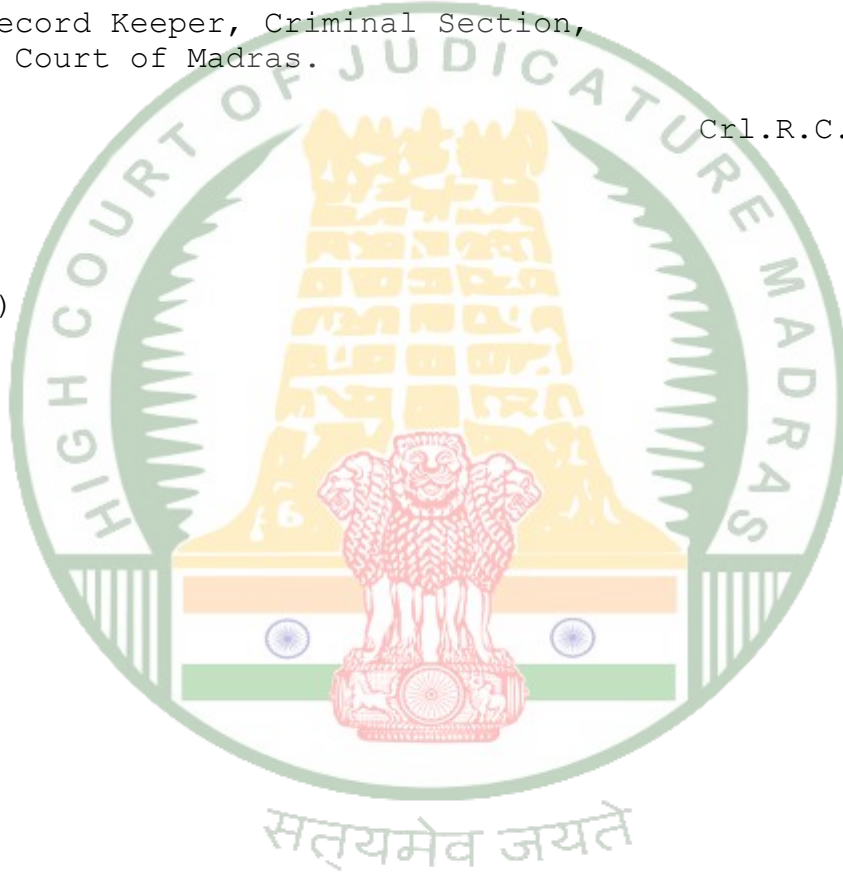
2.The Additional Chief Metropolitan Magistrate,  
Egmore, Chennai.

3.The Public Prosecutor, High Court of Madras

4.The Record Keeper, Criminal Section,  
High Court of Madras.

Crl.R.C.No.166 of 2014

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